

COMMITTEE ON WAYS AND MEANS

*Representative Steve Yarbrough, Chairman
Representative Rick Murphy, Vice-Chairman
Kitty Decker, Legislative Research Analyst*



*	Strike-everything Amendment
[E]	Emergency Clause
[P 105]	Proposition 105 Clause
[P 108]	Proposition 108 Clause

Bill	Chapter	Short Title	Page
HB 2103	60	2008 tax corrections act	101
HB 2104	94	internal revenue code conformity	101
HB 2106	21	sales tax; electronic payment delinquency	101
HB 2107	204	delinquent information tax returns; penalty.....	101
HB 2130	49	residential property tax; homesite area.....	101
HB 2191	178	property classification; bed and breakfast	101
HB 2330	252	property tax exemption; charter schools	101
HB 2351	65	property tax lien interest calculation.....	102
HB 2356	303	*prime contracting TPT; deduction.....	102
HB 2391	290	*budget reconciliation; general revenues.....	14
		<i>(See Committee on Appropriations – R & D Tax Credit)</i>	
HB 2514	114 [E]	reservation telecommunications legislative study committee	102
HB 2523	174 [E]	*tax lien sale; regulation	103
HB 2589	220	income tax credits; other states	103
HB 2614	306	renewable energy valuation; expiration extension.....	103
HB 2622	255	*exemption; preconstruction services.....	103
HB 2638	151	municipal tax incentive penalty; application	104
HB 2692	221	taxpayer information ruling	104
SB 1189	83	private historic cemeteries; historic preservation	105
SB 1340	194	tax exemption; internet applications.....	105

[THIS PAGE INTENTIONALLY LEFT BLANK]

HB 2103 – Chapter 60 – 2008 tax corrections act

The annual bill that corrects technical errors, obsolete language and blending problems in the tax statutes of Arizona Revised Statutes.

HB 2104 – Chapter 94 – internal revenue code conformity

The annual bill that updates the Arizona definition of *internal revenue code* to conform with changes made at the federal level. The conforming changes include the 2007 Small Business and Work Opportunity Tax Act, the Energy Independence and Security Act, the Mortgage Forgiveness Debt Relief Act and the 2007 Technical Corrections Act.

HB 2106 – Chapter 21 – sales tax; electronic payment delinquency

Effective January 1, 2009, establishes a delinquency date for monthly on-line transaction privilege tax (TPT) payments. The payments will be delinquent if not received on or before the last business day of the month.

HB 2107 – Chapter 204 – delinquent information tax returns; penalty

Beginning January 1, 2009, provides the penalty for delinquent information returns is prorated by:

- Adjusting the penalty for a taxpayer who fails to file an information return, or provide the required materials, from a lump sum penalty of \$500 to \$100 for each month the return is late.
- The total penalty cannot exceed \$500.

HB 2130 – Chapter 49 – residential property tax; homesite area

Beginning January 1, 2009, establishes criteria for the determination of a homesite for the purpose of assessing owner-occupied residential property for property tax purposes with a 10% assessment ratio:

- Allows a homesite that is class 3 property to contain up to 10 acres on a single parcel of real property on which the residential improvement is located.
- Allows no more than 40 acres on a single parcel of real property if it is zoned exclusively for residential purposes, contains legal restrictions or contains physical conditions that prevent the division of the parcel.
- Defines *physical conditions* as topography, mountains, washes, rivers, roads or any other configuration that limits the residential usable land area.

HB 2191 – Chapter 178 – property classification; bed and breakfast

For property classification purposes, increases the number of rooms, from four to six, a bed and breakfast inn is allowed to have for transient lodging and still qualify as class four property with a 10% assessment ratio.

HB 2330 – Chapter 252 – property tax exemption; charter schools

Clarifies that property owned by a nonprofit organization and used for educational purposes is exempt from property tax beginning on the date the nonprofit organization acquires the property.

- Requires the nonprofit organization to file an initial affidavit for an exemption with the county assessor and provides an exemption from the annual affidavit requirements.
- Requires the county assessor, upon request from the nonprofit organization, to issue a receipt for the initial affidavit within 10 days.

- If the nonprofit organization fails to file the initial affidavit, they may petition the county board of supervisors to grant the exemption and direct the county treasurer to refund any property taxes paid.
- Requires the county treasurer to pay the claim within 30 days after it is submitted and to forgive any property taxes, interest and penalties that have not been paid.
- Allows leases from one nonprofit educational organization to another nonprofit educational organization to be exempt from property tax if the property is not used for profit and is being used for education purposes.

HB 2351 – Chapter 65 – property tax lien interest calculation

Clarifies that interest begins to accrue on tax liens on the first day of the month following the purchase of an initial tax lien or any subsequent tax liens.

HB 2356 – Chapter 303 – *prime contracting TPT; deduction

Clarifies the TPT deduction under the prime contracting classification to exempt any amounts attributable to development fees that are incurred for construction, development or improvement of property and paid by the contractor or subcontractor. Provides for the following:

- The exempt amount for the project must not exceed the actual value of the development fee.
- The property must be subject to a development fee and the attributable amount is equal to the total amount of development fees paid by the prime contractor or subcontractor and is the amount credited in exchange for the construction or dedication of real property for public infrastructure, public safety or other public services that are necessary.
- Defines *development fees* to mean fees imposed to offset capital costs of providing public infrastructure, public safety or other public services to a development authorized by a city, county or special district.
- Modifies the prohibition for municipalities to impose a tax on development fees to mirror the state TPT exemption.
- Contains a retroactivity clause to September 1, 2006 and contains language stating the change is intended to be clarifying and not expand the scope of the current exemption.

HB 2514 – Chapter 114[E] – reservation telecommunications legislative study committee

Reestablishes the Reservation Telecommunications Legislative Study Committee (Committee) until September 30, 2010.

- Provides that the Committee consists of six members; three members appointed from the House of Representatives by the Speaker of the House of Representatives and three members appointed from the Senate by the President of the Senate.
- Requires the Committee to identify methods to track tribal contributions to the state TPT and identify an appropriate distribution formula for tribal governments.
- Submit a report of its findings by December 1, 2009 and recommend tribal telecommunications legislation incorporating the state TPT.

HB 2523 – Chapter 174 [E] – *tax lien sale; regulation

Permits the county board of supervisors to sell delinquent property tax deeds held by the state to the owner of adjoining property if:

- As determined by the county assessor, the tax lien property and the adjoining property were once under common ownership or the tax lien property is in a HOA common area.
- The property cannot be separately used for residential purposes.
- Requires the board of supervisors to remove the tax lien property from the auction if the property fits within the criteria and the adjoining property owner has made an offer to purchase the property.
- Prohibits the sale of the tax lien property to the adjoining owner if there is more than one adjoining parcel of property.

HB 2589 – Chapter 220 – income tax credits; other states

Clarifies what constitutes *entire income* for the purpose of the individual income tax credit for income taxes paid to other states. Specifically, the bill:

- Defines *entire income on which the tax is imposed by this chapter* as Arizona adjusted gross income, excluding the exemption for blind and over 65 years of age.
- Defines *tax payable under this chapter* as income tax imposed by Arizona on the taxpayer's taxable income minus all credits except for the credit for the taxes paid to other states.
- Defines the terms *entire income on which the other state's or country's tax is imposed* and *income subject to tax in the other state or country and also taxable under this title*.
- Contains a retroactive date for taxable years beginning from and after December 31, 2007.

HB 2614 – Chapter 306 – renewable energy valuation; expiration extension

Provides for the valuation of renewable energy equipment and systems, for property tax purposes, as follows:

- Extends the sunset date for the valuation method of renewable energy equipment from December 31, 2011 to December 31, 2040. Eliminates the sunset date as part of session law.
- For class 3 (homeowner residential) and class 4 (leased residential) properties, any renewable energy system that is part of the property and generates electricity primarily for on-site consumption is considered to add no value to the property.

HB 2622 – Chapter 255 – *exemption; preconstruction services

Clarifies the TPT exemption for design phase services and professional services related to prime contracting activities. Specifically:

- Provides a TPT exemption for a contract for design phase services or a professional services contract.
- *Design phase services contract* is defined to mean services for developing and completing a design for a project that are not construction phase services. Stipulates activities that can be included in the design phase.

- Defines *construction phase services* as services for the execution and completion of any modification, including the administration or supervision of various modifications and preparation of any reports and updates.
- Defines *professional services* as services of an architect, assayer, engineer, geologist, land surveyor or landscape architect for which the gross proceeds of sales or gross income has not otherwise been deducted under the prime contracting classification under an existing exemption.
- Contains a retroactivity clause to January 1, 2001, however, a taxpayer may not claim a refund based on the retroactivity clause.

HB 2638 – Chapter 151 – municipal tax incentive penalty; application

Applies the current penalty for municipalities that provide TPT incentives for retail projects to only those cities that have at least 65% of their land area within a Metropolitan Statistical Area (MSA) with more than two million persons (Phoenix-Mesa MSA).

HB 2692 – Chapter 221 – taxpayer information ruling

Allows taxpayers to request information rulings from the Department of Revenue (DOR) anonymously through their representative.

- Provides that a Taxpayer Information Ruling is a written determination of the interpretation of tax statutes by DOR that is issued after the effective date of this act and is similar to the information provided in a private taxpayer ruling.
- Establishes that the difference between a Taxpayer Information Ruling and a Private Taxpayer Ruling is that a taxpayer may request the advice from DOR through a taxpayer representative without disclosing any identifying information of the taxpayer.
- Requires DOR to notify the taxpayer's representative when a Taxpayer Information Ruling is modified or revoked.
- Allows the taxpayer to disclose their identity to DOR regarding a particular Taxpayer Information Letter for purposes of compliance with existing tax laws when the Taxpayer Information Letter is modified or revoked by DOR. This will allow the taxpayer to avoid penalties or back tax when it relied on the previous information in the Taxpayer Information Letter.
- If a taxpayer does not disclose their identifying information, the information contained in the Taxpayer Information Ruling is not binding on DOR for the purpose of abating tax, penalties and interest.
- Allows taxpayers for both the Taxpayer Information Ruling and the Private Taxpayer Ruling to request that the ruling be kept confidential instead of a redacted version being published if they feel their identity can be determined. If DOR agrees, the ruling will be kept confidential. If DOR does not agree, the taxpayer can withdraw their request for a ruling. The decision of DOR to publish is not an appealable agency action.

SB 1189 – Chapter 83 – private historic cemeteries; historic preservation

Creates requirements for the State Historic Preservation Officer concerning historic private burial sites and historic private cemeteries as follows:

- Clarifies the exemption for such burial sites and cemeteries from property tax assessments.
- Requires the State Historic Preservation Officer to survey and maintain inventories, make information available concerning preservation, make recommendations on certification, classification and eligibility for property tax and investment tax incentives for historic private burial sites and historic private cemeteries.

SB 1340 – Chapter 194 – tax exemption; internet applications

Clarifies the assessment of student testing or curriculum design is exempt from TPT and use tax:

- Provides an exemption for assessment application services designed to test student learning or promote curriculum design that are purchased by any school district, charter school, community college or state university from the use tax and the following activities under TPT:
 - Retail classification
 - Telecommunications classification
 - Rental property classification
- Defines *application services* as remotely provided software applications that use hypertext transfer or other network protocols.
- Defines *curriculum design or enhancement* as the planning, implementing or reporting on study or learning activities.
- Contains a retroactive clause to taxable periods beginning January 1, 2000. Refunds are limited to an aggregate amount of \$10,000 and to claim a refund, the taxpayer must submit a claim before December 31, 2008 and provide documents to DOR that any amount of tax and interest collected from other persons by the taxpayer will be returned to those persons.
- Contains a nonseverability clause.